

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Petition of ALLTEL Communications, Inc.)	
for Consent to Redefine the Service)	
Areas of Rural Telephone Companies In the)	
State of Wisconsin)	

**PETITION OF ALLTEL COMMUNICATIONS, INC. FOR CONSENT
TO REDEFINE THE SERVICE AREAS OF RURAL TELEPHONE
COMPANIES IN THE STATE OF WISCONSIN**

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Pursuant to Section 54.207(c) of the Commission's rules,¹ ALLTEL Communications, Inc., on behalf of itself and its affiliated partnerships ALLTEL Wireless of Wisconsin RSA #1, LLC and ALLTEL Wireless of Wisconsin #7, LLC (collectively, "ALLTEL"), petitions the Commission to approve the decision of the Public Service Commission of Wisconsin ("WPSC")² to redefine certain rural incumbent local exchange carrier ("ILEC") service areas in Wisconsin on a wire center-by-wire center basis (the "Petition"). As the WPSC concluded, redefining these rural service areas is reasonable and will serve the public interest by encouraging competition in historically non-competitive markets, extending universal service support to rural Wisconsin

¹ 47 C.F.R. § 54.207(c).

² *Application of ALLTEL Communications, Inc., ALLTEL Wireless of Wisconsin RSA #1, LLC and ALLTEL Wireless of Wisconsin RSA #7, LLC for Designation as an Eligible Telecommunications Carrier in Wisconsin*, Docket No. 7131-TI-101 (Sept. 30, 2003) ("WPSC Decision"), attached hereto as Exhibit A.

consumers and improving consumers' quality of life, increasing consumer choice, and encouraging greater economic, technology and infrastructure development.

I. INTRODUCTION AND SUMMARY.

The WPSC recently designated ALLTEL, a cellular telecommunications service provider in Wisconsin, as a competitive eligible telecommunications carrier ("ETC") and thus eligible to receive federal universal service support in the state. The WPSC also approved redefining the service areas of several ILECs to facilitate ALLTEL's receipt of such support. Under the Communications Act of 1934, as amended (the "Act"), a carrier may be designated as eligible to receive support from the universal service fund ("USF") within a "service area."³ For an area that is served by a rural ILEC, the Act defines an ETC's "service area" for USF support purposes as the ILEC's study area unless the state and this Commission establish a definition for the ILEC's "service area" that is different from the ILEC's study area.⁴ Thus, a competitive ETC's "service area" is defined by the rural ILEC's "service area," which can differ from the ILEC's study area only if the state regulatory agency and the Commission agree.

The area covered by a wireless carrier's licensed service typically is not precisely congruent with the study areas of wireline carriers. Thus, an ILEC's "service area" must be redefined on a wire center-by-wire center basis in order for a wireless carrier such as ALLTEL serving portions of the ILEC's study area to be eligible to receive universal service support.

ALLTEL specifically seeks to redefine the rural study areas of Amery Telecom Inc., CenturyTel of Central Wisconsin, CenturyTel of Northern Wisconsin, CenturyTel of Northwest

³ 47 U.S.C. § 214(e)(2).

⁴ See *id.* at § 214(e)(5). A "study area" is typically an ILEC's existing service area. The study area boundaries were fixed as of November 15, 1984. *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, 96 F.C.C.2d 781 (1984).

Wisconsin, CenturyTel of the Midwest-Kend, CenturyTel of the Midwest-Wisconsin, Chequamegon Telephone Cooperative, Chibardun Telephone Cooperative, Frontier Communications of Wisconsin, Midway Telephone Company – Wisconsin, Mt. Vernon Telephone Company, Stockbridge & Sherwood Telephone, Telephone USA of Wisconsin LLC, and West Wisconsin Telecom Cooperative (collectively, the “Rural ILECs”) on a wire center basis. ALLTEL’s defined “service area” would consist of only those wire centers within the Rural ILECs’ study areas in which it provides service, rather than the entire study area of each of the Rural ILECs, portions of which ALLTEL does not serve.

Because the area covered by a wireless carrier’s service typically cannot conform precisely to an ILEC’s wireline study area, a rural ILEC would have a market advantage over a competitive wireless ETC if the ETC were required to conform its “service area” for USF support purposes to that of the rural carrier’s study area. The Act and the Commission’s rules accordingly allow the “service areas” of the Rural ILECs to be defined on a non-study area basis in order for a competitive carrier to be designated as an ETC for the same “service area.” In designating ALLTEL as an ETC in Wisconsin, the WPSC concluded that the Rural ILECs’ service areas should be redefined on a wire center basis.

This Commission should similarly find that redefining the Rural ILECs’ service areas on a wire center basis is in the public interest because consumers in Wisconsin would benefit from increased consumer choices, competitive and ubiquitous services, and the deployment of additional telecommunications infrastructure. Furthermore, the Petition satisfies the Commission’s rules and the recommendations of the Federal-State Joint Board on Universal Service (“Joint Board”). ALLTEL also requests that the Commission consider the Petition promptly so as to minimize the delay in bringing these benefits to consumers.

II. BACKGROUND.

A. The Universal Service Statutory And Regulatory Framework Provides For The Redefinition Of The Service Areas Of Rural Telephone Companies.

Section 254 of the Act⁵ directs the Commission and states to establish universal service support mechanisms for the provision of affordable and quality telecommunications services to all Americans. Carriers with ETC status may receive federal universal service support if they provide and advertise the availability of services that are supported by the universal service mechanism.⁶ States may designate carriers as ETCs in rural service areas so long as they meet the universal service requirements and the designation is consistent with the public interest, convenience, and necessity.⁷

The Act specifically defines an ETC's service area as the "geographic area established by a State commission ... for the purpose of determining universal service obligations and support mechanisms."⁸ For regions specifically served by incumbent rural carriers, "service area" refers to an incumbent carrier's study area "unless and until the Commission and the States, after taking into account recommendations of [the] Federal-State Joint Board. . . establish a different definition of service area for such [incumbent] company."⁹ The Commission has long recognized that requiring a new market entrant – especially a wireless service provider – to conform its service area to the existing study area of an ILEC gives the ILEC undue market

⁵ 47 U.S.C. § 254.

⁶ *Id.* § 214(e)(1).

⁷ *Id.* § 214(e)(2).

⁸ *Id.* at § 214(e)(5).

⁹ *Id.*

advantage.¹⁰ To avoid such an anti-competitive result, a state, acting in concert with this Commission, may define the service area of a rural ILEC on a basis other than its study area so that a wireless carrier can be designated as an ETC for the same “service area.”¹¹ The Commission expressly established procedures to seek its approval of a state commission’s decision to define the service areas of rural ILECs so that they do not conform to their study areas.¹²

B. The WPSC Designated ALLTEL As An ETC In Wisconsin And Approved Redefining The Rural ILECs’ Service Areas.

On May 22, 2003, ALLTEL filed an application with the WPSC seeking designation as an ETC in its wireless service areas in Wisconsin. ALLTEL committed to provide service throughout its entire licensed service area in the state.¹³ In its application, however, ALLTEL requested that the ILEC study areas only partially served by it be redefined on a wire center basis. ALLTEL made this request because, as a wireless carrier, it is licensed by cellular market areas (“CMAs”), which typically differ in size and have different boundary lines from rural ILEC study areas.

Defining ALLTEL’s service areas on a wire center basis ensures that ALLTEL receives federal universal service support only for those ILEC wire centers in which it provides

¹⁰ *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, 8879-80 (1997) (“*Universal Service Order*”).

¹¹ *Id.* at 8880 (“We conclude that the plain language of Section 214(e)(5) dictates that neither the Commission nor the states may act alone to alter the definition of service areas served by rural carriers.”).

¹² *See id.* at 8880-81; 47 C.F.R. § 54.207(c)(1).

¹³ ALLTEL provides service in portions of certain ILEC wire centers. ALLTEL, however, is not seeking ETC status for those partially-served wire centers due to potential difficulties in allocating costs and universal service support for areas that are smaller than a wire center.

competitive ETC services, rather than support for an entire study area that it may not completely serve. The WPSC issued its decision granting ALLTEL's application on September 30, 2003, finding that redefining the Rural ILECs' service areas was in the public interest. The WPSC directed ALLTEL to petition the Commission for approval of the WPSC's decision to redefine these service areas. A copy of the WPSC's decision is attached hereto as Exhibit A.

III. REDFINING THE RURAL ILECS' SERVICE AREAS SERVES THE PUBLIC INTEREST.

In granting ALLTEL's ETC application, the WPSC considered multiple factors, including: (1) increasing competition; (2) increasing consumer choice; (3) benefits to consumers' quality of life; (4) promoting universal service; (5) encouraging greater economic, technology and infrastructure development; (6) promoting efficiency and productivity; and (7) advancing telecommunications services in areas that are economically or racially diverse.¹⁴ The WPSC concluded that designating ALLTEL as an ETC throughout its service areas in Wisconsin, thus also defining ALLTEL's service area on a basis other than the Rural ILECs' study areas, would benefit Wisconsin consumers in these ways.

For the same reasons, the Commission also should find that redefining the Rural ILECs' service areas is in the public interest. The Commission has concluded in similar cases that redefining the service areas of rural carriers on a wire center basis satisfies the policies of the Act and the Commission to promote quality and affordable telecommunications services to all Americans.¹⁵ Furthermore, as explained below, redefining these particular service areas: (1) will

¹⁴ *WPSC Decision* at 8, attached hereto as Exhibit A.

¹⁵ See, e.g., *Federal-State Joint Board on Universal Service; RCC Holdings, Inc., Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, 17 FCC Rcd 23532, 23547-48 (WCB 2002) ("RCC Holdings") (granting the wireless competitive ETC's request to redefine the service areas of certain rural telephone

minimize the incentive for ALLTEL to engage in deliberate or inadvertent cream skimming; (2) will not harm or affect the Rural ILECs' status as rural telephone companies; and (3) will not be administratively burdensome for the Rural ILECs.

IV. REDEFINING THE RURAL ILECS' SERVICE AREAS SATISFIES THE COMMISSION'S RULES AND THE RECOMMENDATIONS OF THE JOINT BOARD.

Section 54.207(c)(1) sets forth the requirements for seeking the Commission's approval of a state's decision to allow a competitive ETC to have a service area different from that of a rural ILEC study area. Specifically, the petition must contain a list of the redefined service areas proposed by the state commission.¹⁶ Exhibit B to the Petition identifies the Rural ILECs' service areas in Wisconsin for which ALLTEL seeks Commission consent to redefine on a wire center basis.

Pursuant to Section 54.207(c)(1), the petition also must include the state's ruling or statement explaining why it adopted the redefined service areas.¹⁷ A copy of the WPSC's decision approving the redefinition of the Rural ILECs' service areas in Wisconsin is attached hereto as Exhibit A. The petition should further include "an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with

companies in Alabama on a wire center by wire center basis); *Federal-State Joint Board on Universal Service; Cellular South License, Inc., Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, 17 FCC Rcd 24393, 24407 (WCB 2002) ("Cellular South") (same); *Petition for Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas*, 15 FCC Rcd 9921, 9927-28 (CCB 1999) (granting the requests of the Washington Utilities and Transportation Commission and various carriers to redefine the service areas of certain rural telephone companies in Washington on a wire center by wire center basis).

¹⁶ 47 C.F.R. § 54.207(c)(1)(i).

¹⁷ *Id.* § 54.207(c)(1)(ii).

respect to the definition of a service area served by a rural telephone company.”¹⁸ The Joint Board has in turn identified three factors that should be considered when reviewing such petitions: (1) the potential for “cherry picking” or “cream skimming;” (2) the unique status of rural carriers; and (3) administrative burdens that may be imposed on rural carriers as a result of not defining the service area of a competitive ETC by study area.¹⁹ As discussed below, the Petition adequately addresses the concerns elucidated by the Joint Board. Accordingly, the Petition meets the criteria of Section 54.207(c)(1).

A. Redefining The Service Areas Of The Rural ILECs Minimizes The Incentive To “Cream Skim.”

The WPSC addressed in its decision whether redefining the service areas of the Rural ILECs would result in “cherry picking” or “cream skimming” by ALLTEL.²⁰ These terms refer to the practice of picking and serving only the lowest cost exchanges within a rural ILEC’s study area. The WPSC concluded that in this case there is little incentive for ALLTEL to cherry pick or cream skim for the low cost exchanges.²¹ In addition, it noted that because rural carriers can choose to disaggregate their service areas, thereby ensuring that competitive ETCs receive only USF support for the lines served in a particular area, “concerns about ‘cherry picking’ and ‘cream skimming’ are largely moot.”²²

¹⁸ *Id.*

¹⁹ *Federal-State Joint Board on Universal Service*, Recommended Decision, 12 FCC Rcd 87, 180 (1996) (subsequent history omitted) (“*Recommended Decision*”).

²⁰ *WPSC Decision* at 10-12, attached hereto as Exhibit A.

²¹ *Id.* at 11.

²² *Id.*

The Commission also has previously recognized that “a request for ETC designation for an area less than the entire study area of a rural telephone company might raise concerns that the petitioner will be able to cream skim in the rural study area.”²³ The Commission has determined, however, that wireless carriers are often constrained by their FCC licenses as to where they can provide service and has concluded that cream skimming concerns are minimized when the wireless carrier commits to provide universal service throughout its licensed service area.²⁴

Because ALLTEL has committed to provide service throughout its entire licensed service area in Wisconsin, its inability to completely serve the study areas of some of the rural telephone companies does not raise cream skimming concerns. ALLTEL will not “pick and choose” which areas to serve and will respond to all customers’ requests for service throughout its licensed service area. Furthermore, the Rural ILECs have the option of filing disaggregation plans so that they can target per-line support below the study area level and prevent wireless carriers from averaging high-cost support across all lines within their study areas.²⁵ The Commission has often stated that disaggregating and targeting high-cost support eliminates any incentive on the part of wireless carriers to cream skim.²⁶

The specific facts in this case further confirm that defining ALLTEL’s rural service area on a wire center basis will not result in deliberate or even “inadvertent” rural cream skimming.

As noted in the WPSC’s decision, ALLTEL will serve the entire study areas of 36 rural

²³ *RCC Holdings*, 17 FCC Rcd at 23542-43.

²⁴ *Id.* at 23542; *Cellular South*, 17 FCC Rcd at 24404; *Recommended Decision*, 12 FCC Rcd at 180.

²⁵ *Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, 16 FCC Rcd 11244, 11302 (2001).

²⁶ *Id.*; *RCC Holdings*, 17 FCC Rcd at 23544; *Cellular South*, 17 FCC Rcd at 24405.

telephone companies in Wisconsin.²⁷ In those cases, ALLTEL's "service area" can be defined by the study area of these rural telephone companies. It also intends to serve portions of the study areas of fifteen other rural carriers, which are the subject of the Petition.²⁸ Some of the Rural ILECs already have filed disaggregation plans with the Universal Service Administrative Company.²⁹ These plans should keep higher levels of universal service support allocated to higher-cost, lower-density areas, further precluding the risk of cream skimming. Those Rural ILECs that have not chosen to file disaggregation plans still have the option of doing so.³⁰ Accordingly, the opportunity for deliberate or inadvertent rural cream skimming is greatly reduced in this case.³¹

B. The Rural ILECs' Unique Status As Rural Telephone Companies Does Not Preclude Redefining Their Service Areas.

The Joint Board previously noted that rural carriers are "on a different competitive footing" from non-rural carriers.³² This unique position does not preclude defining rural service areas on a wire center basis. The WPSC considered multiple factors in reviewing ALLTEL's

²⁷ Appendix B of *WPSC Decision*, attached as Exhibit A hereto.

²⁸ See "Rural Study Areas Partially Served By ALLTEL," attached hereto as Exhibit B.

²⁹ Amery Telecom Inc., Chequamegon Telephone Cooperative, Chibardun Telephone Cooperative, Frontier Communications of Wisconsin, Mt. Vernon Telephone Company, and West Wisconsin Telecom Cooperative already have filed disaggregation plans. Various CenturyTel affiliates, Midway Telephone Company – Wisconsin, Stockbridge & Sherwood Telephone, and Telephone USA of Wisconsin LLC have not yet filed disaggregation plans. See USAC: High Cost Disaggregation - Checklist, available at <http://www.universalservice.org/hc/disaggregation/checklist.asp>.

³⁰ *WPSC Decision* at 12, attached hereto as Exhibit A.

³¹ See *RCC Holdings*, 17 FCC Rcd at 23544; *Cellular South*, 17 FCC Rcd at 24405.

³² *Recommended Decision*, 12 FCC Rcd at 180.

application for ETC status and concluded that redefining the service areas of the Rural ILECs would serve the public interest.³³

The Commission should similarly conclude that redefining the service areas of the Rural ILECs will not harm or diminish the rural status of these carriers. The Rural ILECs' ability to continue to provide telecommunications services will not be affected by ALLTEL having a defined service area different from their study areas. Furthermore, any special considerations currently given to the Rural ILECs under the Act – such as exemptions from interconnection, unbundling and resale requirements – will remain in place. The Commission recognized in *RCC Holdings* that redefining the service areas of rural telephone companies by wire center will not harm the incumbents:

The universal service mechanism supports all lines served by ETCs in rural areas. Therefore, to the extent that RCC Holdings or any future competitive ETC provides new lines to currently unserved customers or second lines to existing wireline subscribers, it will have no impact on the amount of universal service support available to the incumbent rural telephone companies for those lines they continue to serve. Similarly, redefining the service areas of the affected rural telephone companies will not change the amount of universal service support that is available to these incumbents.³⁴

Redefining the service areas of the Rural ILECs will, in fact, help protect these companies by ensuring that levels of universal service support are appropriately allocated based on the cost and population density of each service area.

³³ *WPSC Decision* at 8-12, attached hereto as Exhibit A.

³⁴ *RCC Holdings*, 17 FCC Rcd at 23548 (citation omitted); *see also Cellular South*, 17 FCC Rcd at 24407.

C. Redefining The Service Areas Of The Rural ILECs Will Not Be Administratively Burdensome.

The Joint Board also raised concerns that rural telephone companies would incur increased administrative burdens if required to calculate costs on a basis other than by their entire study areas.³⁵ As previously noted, the WPSC concluded that redefining the service areas of the Rural ILECs would serve the public interest after considering multiple factors.³⁶ The Commission also has previously concluded that allowing a rural ILEC's "service area" to be redefined on a wire center basis does not impose additional administrative burdens on the rural incumbent.³⁷ According to the Commission:

[R]edefining the rural telephone company service areas by wire center boundary will not require the rural telephone companies to determine their costs on a basis other than the study area level. Rather, the redefinition merely enables competitive ETCs to serve areas that are smaller than the entire incumbent rural telephone company's study area. Our decision to redefine the service areas does not modify the existing rules applicable to rural telephone companies for calculating costs on a study area basis. Therefore, we find that the concern of the Joint Board that redefining rural service areas would impose additional administrative burdens on affected rural telephone companies is not at issue here.³⁸

The proposed redefinition of the Rural ILECs' service areas in this case similarly will not impose additional administrative burdens on them. Accordingly, the Commission should grant ALLTEL's request to redefine the partially served Rural ILECs' service areas on a wire center basis.

³⁵ *Recommended Decision*, 12 FCC Rcd at 180.

³⁶ *WPSC Decision* at 8-12, attached hereto as Exhibit A.

³⁷ *RCC Holdings*, 17 FCC Rcd at 23548.

³⁸ *Id.*

V. CONCLUSION.

The WPSC found that defining ALLTEL's service areas in Wisconsin on a wire center basis is consistent with the Act, Commission policies, and the recommendations of the Joint Board. Specifically, the WPSC concluded that designating ALLTEL as an ETC in Wisconsin and redefining the service areas of the Rural ILECs serve the public interest by promoting competition, consumer choice, telecommunications infrastructure development, and ubiquitous service to Wisconsin consumers. ALLTEL therefore requests that the Commission promptly approve the WPSC's decision to redefine the service areas of the Rural ILECs on a wire center basis.

Respectfully submitted,

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